

## *Legal Times*

# How Viable Is Dot-Com Divorce?

*Experts disagree about the wisdom of turning to the Internet to end a marriage*

**By Dee McAree**

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You might think a couple wanting a quick divorce would first stop at a lawyer's office -- or maybe two lawyers' offices, one for each. Not necessarily. Their first stop may be the computer. Welcome to the new world of dot-com divorce.

On two of the most frequented online divorce sites -- [www.completecase.com](http://www.completecase.com) and [www.legalzoom.com](http://www.legalzoom.com) -- customers click on their state of residence, pay an average fee of \$249, and submit to a series of questions about how they want to split their assets and, if applicable, custody of the kids.

They print the documents or receive them by mail within 14 days. Then they file the documents at their courthouse. Once the judge signs the papers, they are officially divorced.

Pioneers of the services claim that they provide an affordable alternative to exorbitant legal fees. Yet many divorce attorneys say potential customers ought to beware, because divorce is a complicated process that requires legal counsel.

Big money is at stake because there are lots of divorces.

In the 44 states that collect data, there were 515 divorces for every 1,000 marriages last year, according to *Mismatch: The Growing Gulf Between Men and Women*, by Andrew Hacker, a professor of political science at Queens College in New York.

An online search for "divorce online" generates thousands of hits, but few sites actually provide the service. Some, like [www.nolo.com](http://www.nolo.com), offer books or legal kits. Others, like [www.mylawyer.com](http://www.mylawyer.com), link to divorce form providers.

Actual providers like Completecase.com Inc. and LegalZoom.com Inc. make divorce available to couples seeking an uncontested divorce in which the parties can work out an agreement by themselves. The sites explicitly state that they are not providing legal advice and are not acting as a substitute for a divorce attorney.

"We're not trying to push people out of lawyers' offices," says Randy Finney, who had a family law practice in Seattle before starting Completecase.com in 2000. The site has brokered about 20,000 divorces, most in California, Texas, New York, and Florida, he says.

The competing Legalzoom.com was started by Brian Lee and Brian Liu. Liu was an associate in the corporate securities practice at Sullivan & Cromwell of New York, and Lee was an associate at Skadden, Arps, Slate, Meagher & Flom of New York.

Through a mutual friend, the two presented their idea to Robert Shapiro, a well-known partner at Los Angeles' Chistensen, Miller, Fink, Jacobs, Glaser, Weil & Shapiro. He loved the idea and put his money into the site, becoming a co-founder, Liu says. It launched in 2001 and, its principals say, it too has served about 20,000 customers.

Through an assistant, Shapiro says that he has no time to be interviewed. In addition to Shapiro, Legalzoom.com boasts an impressive list of other "co-founders" and "advisers," including Julius Christensen, general counsel of Toshiba America Electronic Components Inc., and Armand Arabian, a former California Supreme Court justice. Neither Christensen nor Arabian returned calls for comment.

One adviser, Mark Grady, dean of George Mason University School of Law, who taught Lee and Liu at the University of California at Los Angeles School of Law, says they approached him about becoming an adviser to the site in 1997. He says he received stock options, but hasn't inquired much into their value. He has looked at the Web site and has only "very occasionally" spoken to Liu and Lee about it.

"Frankly, it was a friendship, and I admired what they were doing," says Grady. "They reminded me of two other UCLA students, Jacoby and Myers, who organized their own firm and created a revolution in the delivery of legal services."

Some traditional divorce lawyers are sharply critical of the online services.

The sites are a pitfall for couples in an emotionally delicate situation, says Jane Lessner of Philadelphia's Fox, Rothschild, O'Brien & Frankel. It might seem like a cheap and easy answer, but no one can realize all the horrors that can happen until they've gone through with it, she says.

"Then you're going to need a lawyer to fix it, which is probably far more expensive than getting a lawyer to begin with," Lessner says.

Liu counters, "Our service is not for everyone. We're looking to attract people who don't have a lot to fight over."

In an ideal world, everyone should have an attorney, Liu says. But for people who can't afford one, or those who want to represent themselves, he explains, LegalZoom is a better alternative than trying to figure it out yourself.

Finney, whose site has no advisers, says he got the idea for Completecase.com after realizing that much uncontested divorce work was "basically a process of filling out forms." The service is developed with the pro se individual in mind, and doesn't compete

with lawyers, Finney says. He adds that divorces should be as free of rancor as possible.

"There is nothing more damaging to a family, and financially damaging" than a bitter divorce, Finney explains. He says that a couple should take the least contentious approach from the start, since many divorces ultimately go before a mediator pushing them to resolve their differences anyway.

## **EASE OF USE**

Proponents of dot-com divorce note that the information they provide is already available in similar self-help formats. Law libraries, books, and Web sites all provide information about things like pro se representation over custody orders. The online software just makes it easier to use this information, by presenting it in an interactive, step-by-step process where a user can complete the forms online, Finney says.

"Some of those court divorce packets are 100 pages long and contain intimidating forms," Liu says. "I'm a lawyer, and even I can't figure them out."

On Completecase.com, some of the questions are yes-no. Others, on child support and community property, contain pop-up windows with explanations of relevant case law, written mostly by Finney.

If there is a complicating issue, the user is told to seek legal advice.

Both sites offer a lawyer referral service either online or through a customer service team. According to Finney, some of the lawyers will give legal advice to specific questions through e-mail for a separate fee. Completecase.com also provides links to family therapists and a list of legal resources for each state. "We are not trying to get the idea across that there is a lawyer associated with the site," Finney says. "But anyone who needs a lawyer can find one."

LegalZoom.com takes the opposite approach, clearly associating itself with lawyers. The site features a "celebrity message" and a picture of co-founder Shapiro. If prospective customers register at the site, then sign out before paying the fee to initiate a divorce, they receive an e-mail message bearing Shapiro's name offering a \$10 rebate to "come back to complete your order."

The site offers more than a dozen legal documents, including prenuptials, corporate formations, and copyrights, all backed with a "100 percent no-risk guarantee." The user will be issued a refund anytime he determines that he cannot use the service, Liu says.

LegalZoom.com disputes the idea that its list of marquee legal advisers implies that customers get superior legal services.

"People using the site understand that it is a legal resource," says Grady. Users have no more expectations than someone using the public law library at George Mason, he adds.

"It is not misleading," says Liu, "but we do want to make sure that our documents and our limited service is the best it can be." LegalZoom claims its documents are created by lawyers with more than 30 years of experience and provides a customer service team to answer questions. Phone calls to the customer service number were answered by an automated system. It features "special prices" on divorces: \$299 for a couple with minor children, \$249 without.

"Just \$50 more for children?" Lessner chides.

A typical lawyer wouldn't charge much more in a relatively uncomplicated divorce, Lessner says. She notes that the online price doesn't include court filing fees.

### **'SHORTSIGHTED'**

George Stern, past president of the 1,600-member American Academy of Matrimonial Lawyers, takes issue with the use of the term "uncontested" divorce.

"Any divorce that is not litigated is uncontested when it's settled," says Stern of Atlanta's Stern & Edlin. The forms are shortsighted, he charges, and they ignore aspects of divorce, like tax consequences.

New York divorce lawyer Raoul Felder, a solo practitioner whose celebrity clients have included Elizabeth Taylor and Robin Givens, says he has turned down offers to become an adviser to similar Web sites.

Template forms, he charges, are just "deluding and exploiting" people. "It's like the sick person who calls the doctor, and the doctor says, 'Cough on the phone, I'll tell you what's wrong with you.'"

Dot-com divorce could be dangerous if one person in a relationship has more financial information or personal power than the other, says Sandra Morris, the current president of the American Academy of Matrimonial Lawyers.

"There is no safety valve with the online method to make sure that people are equally knowledgeable and empowered to negotiate a decision," says Morris, a solo practitioner in San Diego. However, she says she never personally has had a case in which people were damaged by a do-it-yourself divorce.

The court is not allowed to review uncontested divorces for fairness, says Judge Dolores Carr, who heads the Family Law Division of the Santa Clara, Calif., Superior Court.

About 90 percent of the divorces in her courts are worked out by the couples without litigation, Carr says. "Once the parties have agreed, we don't look any further."

Grady, LegalZoom.com's adviser, says things might be better if people were rich enough

to hire lawyers for every contract, from employment to buying a car, but they need an affordable alternative.

"I understand why lawyers think people should always consult with lawyers," he says, "but that is not the premise of our legal system."

Grady says that the basic principles of contract law presumably would allow the disadvantaged party to reopen the proceedings if there was fraud. "If we respect the legitimacy of pro se representation," Grady argues, "then people need to be competent unless shown otherwise."

## **OPENING THE MARKET**

Sharyn Sooho, the co-creator of [www.divorcenet.com](http://www.divorcenet.com), an affiliate of Completecase.com, suspects that much of the criticism of dot-com divorce comes from a fear that the Internet will downgrade the legal profession.

"It's a marketplace," says Sooho, a Newton, Mass.-based solo practitioner who has had a family law practice for more than 20 years. She says some lawyers are pleased because arcane language and rules disconnect the law from the public.

"Some lawyers like a closed shop," Sooho says. "I say open it up. It all comes down to how accessible do we want to make the court system."

The American Bar Association has no policy on legal services over the Internet. It has established a task force to look at the issue, says Will Hornsby, staff counsel to its Standing Committee on the Delivery of Legal Services.

*Dee McAree is editorial administrator for the American Lawyer Media newspaper The National Law Journal, where this article first appeared.*